

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 180

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO ALCOHOLIC BEVERAGES AND MOTOR VEHICLES; AMENDING SECTION 23-902, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 18-8004C, IDAHO CODE, TO PROVIDE ADDITIONAL PENALTIES; AMENDING SECTION 18-8005, IDAHO CODE, TO PROVIDE ADDITIONAL PENALTIES; AMENDING SECTION 18-8006, IDAHO CODE, TO PROVIDE ADDITIONAL PENALTIES; AMENDING SECTION 49-315, IDAHO CODE, TO PROVIDE REQUIREMENTS RELATING TO DRIVER'S LICENSES ISSUED TO INTERDICTED PERSONS; AMENDING SECTION 49-2444, IDAHO CODE, TO PROVIDE REQUIREMENTS RELATING TO IDENTIFICATION CARDS ISSUED TO INTERDICTED PERSONS; AMENDING SECTION 23-312, IDAHO CODE, TO PROHIBIT CERTAIN PERSONS FROM SELLING ALCOHOLIC LIQUOR TO INTERDICTED PERSONS; AMENDING CHAPTER 6, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-604A, IDAHO CODE, TO PROVIDE THAT INTERDICTED PERSONS ARE PROHIBITED FROM PURCHASING, CONSUMING OR POSSESSING ALCOHOLIC BEVERAGES AND TO PROVIDE A PENALTY; AMENDING SECTION 23-949, IDAHO CODE, TO PROVIDE THAT INTERDICTED PERSONS ARE NOT ALLOWED TO PURCHASE, POSSESS, SERVE, DISPENSE OR CONSUME BEER, WINE OR OTHER ALCOHOLIC LIQUOR AND TO PROVIDE A PENALTY; AMENDING CHAPTER 10, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1025, IDAHO CODE, TO PROVIDE THAT IT IS A MISDEMEANOR FOR INTERDICTED PERSONS TO MAKE CERTAIN FALSE REPRESENTATIONS OR OMISSIONS RELATING TO THE SELLING, SERVING OR DISPENSING OF BEER AND TO PROVIDE LICENSEE REQUIREMENTS; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 23-902, Idaho Code, be, and the same is hereby amended to read as follows:

23-902. DEFINITIONS. The following words and phrases used in this chapter shall be given the following interpretation:

(1) "Club" includes any of the following organizations where the sale of spirituous liquor for consumption on the premises is made to members and to bona fide guests of members only:

(a) A post, chapter, camp or other local unit composed solely of veterans and their duly recognized auxiliary, and which is a post, chapter, camp or other local unit composed solely of veterans which has been chartered by the congress of the United States for patriotic, fraternal or benevolent purposes, and which has, as the owner, lessee or occupant, operated an establishment for that purpose in this state; or

(b) A chapter, aerie, parlor, lodge or other local unit of an American national fraternal organization, which has as the owner, lessee or occupant, operated an establishment for fraternal purposes in this state and actively operates in not less than thirty-six (36) states or has been in continuous existence for not less than twenty (20) years; and which has not less than fifty (50) bona fide members in each unit, and which owns, maintains or operates club quarters, and is authorized and incorporated to operate as a nonprofit club under the laws of this state, and which has recognized tax exempt status under section 501(c)(8) or 501(c)(10) of the Internal Revenue Code, and has been continuously incorporated and operating for a period of not less than one (1) year. The club shall have had during that period of one (1) year, a bona fide membership with regular meetings conducted at least once each month, and the membership shall be and shall have been actively engaged in carrying out the objects of the club. The club membership shall consist of bona fide dues paying members, recorded by the secretary of the club, paying at least six dollars (\$6.00) per year in dues, payable monthly, quarterly or annually; and the members at the time of application for a club license shall be in good standing, having paid dues for at least one (1) full year.

(2) "Convention" means a formal meeting of members, representatives, or delegates, as of a political party, fraternal society, profession or industry.

(3) "Director" means the director of the Idaho state police.

(4) "Gaming" means any and all gambling or games of chance defined in chapters 38 and 49, title 18, Idaho Code, or any section or sections thereof, whether those games are licensed or unlicensed.

(5) "Interdicted person" means a person to whom the sale, delivery, giving or furnishing of liquor or alcoholic beverages, as defined in section 23-1401(1), Idaho Code, is prohibited under law, except when an alcoholic beverage is given or furnished in connection with the practice of the religious tenets of any church, synagogue or other place of worship by the adherents thereof.

(6) "License" means a license issued by the director to a qualified person, under which it shall be lawful for the licensee to sell and dispense liquor by the drink at retail, as provided by law.

(7) "Licensee" means the person to whom a license is issued under the provisions of law.

(8) "Liquor" means all kinds of liquor sold by and in a state liquor store of the state of Idaho.

(9) "Live performance" means a performance occurring in a theater and not otherwise in violation of any provision of Idaho law.

(10) "Municipal license" means a license issued by a municipality of the state of Idaho under the provisions of law.

(11) "Party" means a social gathering especially for pleasure or amusement and includes, but is not limited to, such social events as weddings, birthdays, and special holiday celebrations to include, but not be limited to, New Year's celebrations, Super Bowl Sunday, St. Patrick's Day, the Fourth of July and Labor Day.

(12) "Person" means every individual, partnership, corporation, organization, or association holding a retail liquor license, whether conducting the business singularly or collectively.

(13) "Premises" means the building and contiguous property owned, or leased or used under a government permit by a licensee as part of the business establishment in the business

of sale of liquor by the drink at retail, which property is improved to include decks, docks, boardwalks, lawns, gardens, golf courses, ski resorts, courtyards, patios, poolside areas or similar improved appurtenances in which the sale of liquor by the drink at retail is authorized under the provisions of law.

(14) "Rules" means rules promulgated by the director in accordance with the provisions of law.

(15) "State liquor store" means a liquor store or distributor established under and pursuant to the laws of the state of Idaho for the package sale of liquor at retail.

(16) "Theater" means a room, place or outside structure for performances or readings of dramatic literature, plays or dramatic representations of an art form not in violation of any provision of Idaho law.

(17) All other words and phrases used in this chapter, the definitions of which are not herein given, shall be given their ordinary and commonly understood and acceptable meanings.

SECTION 2. That Section 18-8004C, Idaho Code, be, and the same is hereby amended to read as follows:

18-8004C. EXCESSIVE ALCOHOL CONCENTRATION –
PENALTIES. Notwithstanding any provision of section 18-8005, Idaho Code, to the contrary:

(1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), Idaho Code, for the first time, but who has an alcohol concentration of 0.20, as defined in section 18-8004(4), Idaho Code, or more, as shown by an analysis of his blood, breath or urine by a test requested by a police officer, shall be guilty of a misdemeanor; and:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days the first forty-eight (48) hours of which must be consecutive, and may be sentenced to not more than one (1) year;

(b) May be fined an amount not to exceed two thousand dollars (\$2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of this section and violations of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license, identification card or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted; and

(f) Shall be designated an interdicted person, as defined in section 23-902(5), Idaho Code, for a period of five (5) years and shall be ordered to obtain, at his own expense, a new driver's license as prescribed in section 49-315, Idaho Code, a new identification card as prescribed in section 49-2444, Idaho Code, or both a new driver's license and a new identification card.

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, Idaho Code, and who has an alcohol concentration of 0.20, as defined in section 18-8004(4), Idaho Code, or more, as shown by an analysis of his blood, breath or urine by a test requested by a police officer, and who previously has been found guilty of or has pled guilty to one (1) or more violations of section 18-8004, Idaho Code, in which the person had an alcohol concentration of 0.20 or more, or any substantially conforming foreign

1 criminal violation wherein the defendant had an alcohol concentration of 0.20 or more, or any
 2 combination thereof, within five (5) years, notwithstanding the form of judgment or withheld
 3 judgment shall be guilty of a felony; and:

4 (a) Shall be sentenced to the custody of the state board of correction for not to
 5 exceed five (5) years; provided that notwithstanding the provisions of section 19-2601,
 6 Idaho Code, should the court impose any sentence other than incarceration in the state
 7 penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum
 8 period of not less than thirty (30) days; and further provided that notwithstanding the
 9 provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed
 10 a felony;

11 (b) May be fined an amount not to exceed five thousand dollars (\$5,000);

12 (c) Shall surrender his driver's license, identification card or permit to the court; ~~and~~

13 (d) Shall have his driving privileges suspended by the court for a mandatory minimum
 14 period of one (1) year after release from imprisonment, and may have his driving
 15 privileges suspended by the court for not to exceed five (5) years after release from
 16 imprisonment, during which time he shall have absolutely no driving privileges of any
 17 kind; ~~and~~

18 (e) Shall, while operating a motor vehicle, be required to drive only a motor vehicle
 19 equipped with a functioning ignition interlock system, as provided in section 18-8008,
 20 Idaho Code, following the mandatory license suspension period; and

21 (f) Shall be permanently designated an interdicted person, as defined in section
 22 23-902(5), Idaho Code, and shall be ordered to obtain, at his own expense, a new
 23 driver's license as prescribed in section 49-315, Idaho Code, a new identification card
 24 as prescribed in section 49-2444, Idaho Code, or both a new driver's license and a new
 25 identification card.

26 (3) All the provisions of section 18-8005, Idaho Code, not in conflict with or otherwise
 27 provided for in this section, shall apply to this section.

28 (4) Notwithstanding any other provision of law, any evidence of conviction under this
 29 section shall be admissible in any civil action for damages resulting from the occurrence. A
 30 conviction for the purposes of this section means that the person has pled guilty or has been
 31 found guilty, notwithstanding the form of the judgment or withheld judgment.

32 SECTION 3. That Section 18-8005, Idaho Code, be, and the same is hereby amended to
 33 read as follows:

34 18-8005. PENALTIES. (1) Any person who pleads guilty to or is found guilty of a
 35 violation of the provisions of section 18-8004(1)(a) ~~or (5)~~, Idaho Code, for the first time is
 36 guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

37 (a) May be sentenced to jail for a term not to exceed six (6) months;

38 (b) May be fined an amount not to exceed one thousand dollars (\$1,000);

39 (c) Shall be advised by the court in writing at the time of sentencing of the penalties
 40 that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho
 41 Code, which advice shall be signed by the defendant, and a copy retained by the court
 42 and another copy retained by the prosecuting attorney; and

43 (d) Shall have his driving privileges suspended by the court for a period of thirty (30)
 44 days which shall not be reduced and during which thirty (30) day period absolutely
 45 no driving privileges of any kind may be granted. After the thirty (30) day period of

absolute suspension of driving privileges has passed, the defendant shall have driving privileges suspended by the court for an additional period of at least sixty (60) days, not to exceed one hundred fifty (150) days during which the defendant may request restricted driving privileges which the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(b), Idaho Code, for the first time is guilty of a misdemeanor and subject to:

(a) The provisions of section 18-8005(1)(a), (b) and (c), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(3) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(c), Idaho Code, for the first time, is guilty of a misdemeanor and is subject to:

(a) The provisions of section 18-8005(1)(a), (b) and (c), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(4) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation within ten (10) years, notwithstanding the form of the judgment(s) or withheld judgment(s), and except as provided in section 18-8004C, Idaho Code, is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days the first forty-eight (48) hours of which must be consecutive, and five (5) days of which must be served in jail, as required by 23 U.S.C. section 164, and may be sentenced to not more than one (1) year, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work detail program within the custody of the county sheriff during the period of incarceration;

(b) May be fined an amount not to exceed two thousand dollars (\$2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license, identification card or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted; ~~and~~

(f) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the one (1) year mandatory license suspension period;

(g) If the person has pled guilty or was found guilty for the second time within ten (10) years of a violation of the provisions of section 18-8004(1)(b) or (c), Idaho Code, then the provisions of section 49-335, Idaho Code, shall apply; and

(h) If the person has pled guilty or was found guilty for the second time within ten (10) years of a violation of the provisions of section 18-8004(1)(a) or (c), Idaho Code, then he shall be designated an interdicted person, as defined in section 23-902(5), Idaho Code,

for a period of five (5) years and shall be ordered to obtain, at his own expense, a new driver's license as prescribed in section 49-315, Idaho Code, a new identification card as prescribed in section 49-2444, Idaho Code, or both a new driver's license and a new identification card.

(5) Except as provided in section 18-8004C, Idaho Code, any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation, or any combination thereof, within ten (10) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony; and

(a) Shall be sentenced to the custody of the state board of correction for not to exceed ten (10) years; provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days, the first forty-eight (48) hours of which must be consecutive, and ten (10) days of which must be served in jail, as required by 23 U.S.C. section 164; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars (\$5,000);

(c) Shall surrender his driver's license, identification card or permit to the court; ~~and~~

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind; ~~and~~

(e) Shall, while operating a motor vehicle, be required to drive only a motor vehicle equipped with a functioning ignition interlock system, as provided in section 18-8008, Idaho Code, following the mandatory one (1) year license suspension period; and

(f) Shall be permanently designated an interdicted person, as defined in section 23-902(5), Idaho Code, and shall be ordered to obtain, at his own expense, a new driver's license as prescribed in section 49-315, Idaho Code, a new identification card as prescribed in section 49-2444, Idaho Code, or both a new driver's license and a new identification card.

(6) For the purpose of computation of the enhancement period in subsections (4), (5) and (7) of this section, the time that elapses between the date of commission of the offense and the date the defendant pleads guilty or is found guilty for the pending offense shall be excluded. If the determination of guilt against the defendant is reversed upon appeal, the time that elapsed between the date of the commission of the offense and the date the defendant pleads guilty or is found guilty following the appeal shall also be excluded.

(7) Notwithstanding the provisions of subsections (4) and (5) of this section, any person who has pled guilty or has been found guilty of a felony violation of the provisions of section 18-8004, Idaho Code, a felony violation of the provisions of section 18-8004C, Idaho Code, a violation of the provisions of section 18-8006, Idaho Code, a violation of the provisions of section 18-4006 3.(b), Idaho Code, or any substantially conforming foreign criminal felony violation, and within fifteen (15) years pleads guilty or is found guilty of a further violation

1 of the provisions of section 18-8004, Idaho Code, shall be guilty of a felony and shall be
2 sentenced pursuant to subsection (5) of this section.

3 (8) For the purpose of subsections (4), (5) and (7) of this section and the provisions
4 of section 18-8004C, Idaho Code, a substantially conforming foreign criminal violation exists
5 when a person has pled guilty to or has been found guilty of a violation of any federal law or
6 law of another state, or any valid county, city, or town ordinance of another state substantially
7 conforming to the provisions of section 18-8004, Idaho Code. The determination of whether a
8 foreign criminal violation is substantially conforming is a question of law to be determined by
9 the court.

10 (9) Any person who pleads guilty to or is found guilty of a violation of the provisions
11 of section 18-8004, 18-8004C or 18-8006, Idaho Code, shall undergo, at his own expense,
12 (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho
13 Code,) and prior to the sentencing date, an alcohol evaluation by an alcohol evaluation
14 facility approved by the Idaho department of health and welfare; provided however, if the
15 defendant has no prior or pending charges with respect to the provisions of section 18-8004,
16 18-8004C or 18-8006, Idaho Code, and the court has the records and information required
17 under subsections (10)(a), (b) and (c) of this section or possesses information from other
18 reliable sources relating to the defendant's use or nonuse of alcohol or drugs which does not
19 give the court any reason to believe that the defendant regularly abuses alcohol or drugs and
20 is in need of treatment, the court may, in its discretion, waive the evaluation with respect to
21 sentencing for a violation of section 18-8004 or 18-8004C(1), Idaho Code, and proceed to
22 sentence the defendant. The court may also, in its discretion, waive the requirement of an
23 alcohol evaluation with respect to a defendant's violation of the provisions of section 18-8004,
24 18-8004C or 18-8006, Idaho Code, and proceed to sentence the defendant if the court has a
25 presentence investigation report, substance abuse assessment, criminogenic risk assessment,
26 or other assessment which evaluates the defendant's degree of alcohol abuse and need for
27 alcohol treatment conducted within twelve (12) months preceding the date of the defendant's
28 sentencing. In the event an alcohol evaluation indicates the need for alcohol treatment, the
29 evaluation shall contain a recommendation by the evaluator as to the most appropriate treatment
30 program, together with the estimated cost thereof, and recommendations for other suitable
31 alternative treatment programs, together with the estimated costs thereof. The person shall
32 request that a copy of the completed evaluation be forwarded to the court. The court shall
33 take the evaluation into consideration in determining an appropriate sentence. If a copy of the
34 completed evaluation has not been provided to the court, the court may proceed to sentence
35 the defendant; however, in such event, it shall be presumed that alcohol treatment is required
36 unless the defendant makes a showing by a preponderance of evidence that treatment is not
37 required. If the defendant has not made a good faith effort to provide the completed copy of
38 the evaluation to the court, the court may consider the failure of the defendant to provide the
39 report as an aggravating circumstance in determining an appropriate sentence. If treatment is
40 ordered, in no event shall the person or facility doing the evaluation be the person or facility
41 that provides the treatment unless this requirement is waived by the sentencing court, with the
42 exception of federally recognized Indian tribes or federal military installations, where diagnosis
43 and treatment are appropriate and available. Nothing herein contained shall preclude the use of
44 funds authorized pursuant to the provisions of chapter 3, title 39, Idaho Code, for court-ordered
45 alcohol treatment for indigent defendants.

46 (10) At the time of sentencing, the court shall be provided with the following information:

- (a) The results, if administered, of any evidentiary test for alcohol and/or drugs;
- (b) A computer or teletype or other acceptable copy of the person's driving record;
- (c) Information as to whether the defendant has pled guilty to or been found guilty of violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, or a similar offense within the past five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s); and
- (d) The alcohol evaluation required in subsection (9) of this section, if any.

(11) A minor may be prosecuted for a violation of the provisions of section 18-8004 or 18-8004C, Idaho Code, under chapter 5, title 20, Idaho Code. In addition to any other penalty, if a minor pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c) or 18-8004C, Idaho Code, he shall have his driving privileges suspended or denied for an additional one (1) year following the end of any period of suspension or revocation existing at the time of the violation, or until he reaches the age of twenty-one (21) years, whichever period is greater. During the period of additional suspension or denial, absolutely no driving privileges shall be allowed.

(12) In the event that the alcohol evaluation required in subsection (9) of this section recommends alcohol treatment, the court shall order the person to complete a treatment program in addition to any other sentence which may be imposed, unless the court determines that alcohol treatment would be inappropriate or undesirable, in which event, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation, or a comparable program. Such treatment shall, to the greatest extent possible, be at the expense of the defendant. In the event that funding is provided for or on behalf of the defendant by an entity of state government, restitution shall be ordered to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code. Nothing contained herein shall be construed as requiring a court to order that a governmental entity shall provide alcohol treatment at government expense unless otherwise required by law.

(13) Any person who is disqualified, or whose driving privileges have been suspended, revoked or canceled under the provisions of this chapter, shall not be granted restricted driving privileges to operate a commercial motor vehicle.

SECTION 4. That Section 18-8006, Idaho Code, be, and the same is hereby amended to read as follows:

18-8006. AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES. (1) Any person causing great bodily harm, permanent disability or permanent disfigurement to any person other than himself in committing a violation of the provisions of section 18-8004(1)(a) or (1)(c), Idaho Code, is guilty of a felony, and upon conviction:

- (a) Shall be sentenced to the state board of correction for not to exceed fifteen (15) years, provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days, the first forty-eight (48) hours of which must be consecutive; and further

provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars (\$5,000);

(c) Shall surrender his driver's license, identification card or permit to the court; ~~and~~

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind; ~~and~~

(e) Shall be ordered by the court to pay restitution in accordance with chapter 53, title 19, Idaho Code; and

(f) Shall be permanently designated an interdicted person, as defined in section 23-902(5), Idaho Code, and shall be ordered to obtain, at his own expense, a new driver's license as prescribed in section 49-315, Idaho Code, a new identification card as prescribed in section 49-2444, Idaho Code, or both a new driver's license and a new identification card.

(2) Notwithstanding any other provision of law, any evidence of conviction under this section shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

SECTION 5. That Section 49-315, Idaho Code, be, and the same is hereby amended to read as follows:

49-315. LICENSES ISSUED TO DRIVERS. (1) The department shall issue to every qualifying applicant a distinguishing driver's license as applied for, which shall bear a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issuance, date of expiration, license class, endorsements, restrictions, and the applicant's signature. Driver's licenses for persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and driver's licenses for persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." Driver's licenses for any person designated by a court as an interdicted person under the provisions of section 18-8004C, 18-8005 or 18-8006, Idaho Code, shall include a notation "no alcohol until (month, day, year)," shall be of the same format as driver's licenses issued to persons under the age of twenty-one (21) years and shall be subject to a nonrefundable fee as provided in section 49-306(1)(g), Idaho Code. No driver's license shall be valid until it has been signed on the signature line of the license by the licensee.

(2) Every driver's license shall bear a color photograph of the licensee, which shall be taken by the examiner at the time the application is made. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. At the request of the applicant, a driver's license may contain a statement or indication of the medical condition of the licensee.

(3) The department shall notify the commercial driver license information system that a class A, B or C driver's license has been issued as required by 49 CFR parts 383 and 384.

(4) A licensee applying for a hazardous material endorsement on a driver's license shall have a security background records check and shall receive clearance from the federal transportation security administration before the endorsement can be issued, renewed or transferred as required by 49 CFR part 383, subject to procedures established by the federal transportation security administration.

(5) A licensee who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, at the option of the donor, indicate this desire on the driver's license by the imprinting of the word "donor" on the license. The provisions of this subsection shall apply to licensees sixteen (16) years of age or older but less than eighteen (18) years of age if the requirements provided in chapter 34, title 39, Idaho Code, have been complied with and the donor indicates this desire be placed on the license.

(6) A licensee who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the driver's license, provided the licensee presents written certification from a licensed physician verifying that the licensee's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

(7) In the case of an individual who has been designated by a court as an interdicted person under the provisions of section 18-8004C, 18-8005 or 18-8006, Idaho Code, the applicant shall provide legal documentation to verify such designation in accordance with department rules.

SECTION 6. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED – FOUR-YEAR OR EIGHT-YEAR. (1) The department shall issue a distinguishing identification card which shall set forth the information contained in the application, in a form as prescribed by the department. All identification cards issued on or after January 1, 1993, shall not contain the applicant's social security number. An applicant's social security number shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Each card shall have printed on it the applicant's full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, and shall be issued a distinguishing number assigned to the applicant. Each card shall also have printed on it the name of this state, the date of issuance, and the date of expiration. An identification card shall not be valid until it has been signed on the signature line by the applicant. Each card shall bear upon it a color photograph of the applicant which shall be taken by the examiner at the time of application. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. At the request of the applicant, an identification card may contain a statement or indication of the medical condition of the applicant.

No person shall receive an identification card unless and until he surrenders to the department all identification cards in his possession issued to him by Idaho or any other jurisdiction, or any driver's license issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not possess an identification card or any driver's license.

1 Identification cards issued to any person designated by a court as an interdicted person
2 under the provisions of section 18-8004C, 18-8005 or 18-8006, Idaho Code, shall include a
3 notation "no alcohol until (month, day, year)" and shall be of the same format as identification
4 cards issued to persons under the age of twenty-one (21). Identification cards issued to persons
5 under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and
6 identification cards issued to persons eighteen (18) years of age to twenty-one (21) years
7 of age shall include a notation "under 21 until (month, day, year)." The nonrefundable fee
8 for a four-year identification card issued to persons twenty-one (21) years of age or older
9 and to interdicted persons shall be seven dollars and fifty cents (\$7.50) of which five dollars
10 (\$5.00) shall be retained by the county and credited to the current expense fund, and two
11 dollars and fifty cents (\$2.50) shall be deposited in the state treasury to the credit of the
12 highway distribution account. The nonrefundable fee for identification cards issued to persons
13 under twenty-one (21) years of age shall be six dollars and fifty cents (\$6.50), of which five
14 dollars (\$5.00) shall be retained by the county and credited to the current expense fund, and
15 one dollar and fifty cents (\$1.50) shall be deposited in the state treasury to the credit of the
16 highway distribution account. The nonrefundable fee for an eight-year identification card shall
17 be fifteen dollars (\$15.00) of which ten dollars (\$10.00) shall be retained by the county and
18 credited to the current expense fund, and five dollars (\$5.00) shall be deposited in the state
19 treasury to the credit of the highway distribution account. At the option of the applicant,
20 the identification card issued to a person twenty-one (21) years of age or older shall expire
21 either on the cardholder's birthday in the fourth year or the eighth year following issuance of
22 the card, except as otherwise provided in subsection (3) of this section. Every identification
23 card issued to a person under eighteen (18) years of age shall expire five (5) days after the
24 person's eighteenth birthday, except as otherwise provided in subsection (3) of this section.
25 Every identification card issued to a person eighteen (18) years of age but under twenty-one
26 (21) years of age shall expire five (5) days after the person's twenty-first birthday, except as
27 otherwise provided in subsection (3) of this section.

28 Individuals required to register in compliance with section 3 of the federal military
29 selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity
30 to fulfill such registration requirements in conjunction with an application for an identification
31 card. Any registration information so supplied shall be transmitted by the department to the
32 selective service system.

33 (2) Every identification card, except those issued to persons under twenty-one (21) years
34 of age, shall be renewable on or before its expiration, but not more than twelve (12) months
35 before, and upon application and payment of the required fee.

36 (3) Every identification card issued to a person who is not a citizen or permanent
37 legal resident of the United States shall have an expiration date that is the same date as the
38 end of lawful stay in the United States as indicated on documents issued and verified by the
39 department of homeland security, provided however, that the expiration date shall not extend
40 beyond the expiration date for the same category of identification card issued to citizens.
41 Persons whose department of homeland security documents do not state an expiration date
42 shall be issued an identification card with an expiration date of one (1) year from the date of
43 issuance.

44 (4) When an identification card has been expired for less than twelve (12) months, the
45 renewal of the identification card shall start from the original date of expiration regardless of
46 the year in which the application for renewal is made. If the identification card is expired

for more than twelve (12) months, the application shall expire, at the option of the applicant, on the applicant's birthday in the fourth year or the eighth year following reissuance of the identification card, except as otherwise provided in subsection (3) of this section.

(5) A person possessing an identification card who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, at the option of the donor, indicate this desire on the identification card by the imprinting of the word "donor" on the identification card. The provisions of this subsection shall apply to persons possessing an identification card who are sixteen (16) years of age or older but less than eighteen (18) years of age if the requirements provided in chapter 34, title 39, Idaho Code, have been complied with.

(6) A person possessing an identification card or an applicant for an identification card who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the identification card, provided the person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

(7) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(8) Whenever any person, after applying for or receiving an identification card, shall move from the address shown on the application or on the identification card issued, that person shall, within thirty (30) days, notify the transportation department in writing of the old and new addresses.

(9) The department shall cancel any identification card upon determining that the person was not entitled to the issuance of the identification card, or that the person failed to give the required and correct information in his application or committed fraud in making the application. Upon cancellation, the person shall surrender the canceled identification card to the department.

(10) If any person shall fail to return to the department the identification card as required, the department may direct any peace officer to secure its possession and return the identification card to the department.

(11) The department may issue a no-fee identification card to an individual whose driver's license has been canceled and voluntarily surrendered as provided in section 49-322(4), Idaho Code. The identification card may be renewed at no cost to the applicant as long as the driver's license remains canceled.

(12) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (8) of this section.

(13) In the case of an individual designated by a court as an interdicted person under the provisions of section 18-8004C, 18-8005 or 18-8006, Idaho Code, the applicant shall provide legal documentation to verify such designation in accordance with department rules.

SECTION 7. That Section 23-312, Idaho Code, be, and the same is hereby amended to read as follows:

23-312. PERSONS UNDER TWENTY-ONE, INTERDICTED PERSONS AND INTOXICATED PERSONS – INHIBITED SALES. No officer, agent, or employee of the dispensary shall sell any alcoholic liquor to a person under the age of twenty-one (21) years, to an interdicted person or to any person intoxicated or apparently intoxicated.

SECTION 8. That Chapter 6, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-604A, Idaho Code, and to read as follows:

23-604A. INTERDICTED PERSONS – PURCHASE, CONSUMPTION OR POSSESSION PROHIBITED. Any person designated by a court as an interdicted person under the provisions of section 18-8004C, 18-8005 or 18-8006, Idaho Code, who purchases, attempts to purchase or otherwise consumes or possesses any alcoholic beverage as defined in section 23-1401(1), Idaho Code, shall be guilty of a misdemeanor.

SECTION 9. That Section 23-949, Idaho Code, be, and the same is hereby amended to read as follows:

23-949. PERSONS NOT ALLOWED TO PURCHASE, POSSESS, SERVE, DISPENSE, OR CONSUME BEER, WINE OR OTHER ALCOHOLIC LIQUOR. It is unlawful for any person under the age of twenty-one (21) years or an interdicted person to purchase, attempt to purchase, possess, serve, dispense, or consume beer, wine or other alcoholic liquor; provided, however, that any person who is nineteen (19) years of age or older, including an interdicted person, may sell, serve, possess and dispense liquor, beer or wine in the course of his employment in any place as defined in section 23-942, Idaho Code, or other place where liquor, beer or wine are lawfully present so long as such place is the place of employment for such person under twenty-one (21) years of age or such interdicted person.

For purposes of this section, a person shall also be deemed to "possess" alcohol that has been consumed by the person, without regard to the place of consumption.

Any person violating the provisions of this section shall be guilty of a misdemeanor punishable in accordance with the schedule set forth in section 18-1502, Idaho Code.

SECTION 10. That Chapter 10, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-1025, Idaho Code, and to read as follows:

23-1025. FALSE REPRESENTATION – INTERDICTED PERSON – MISDEMEANOR – LICENSEE REQUIREMENTS. (1) Any person designated by a court as an interdicted person under the provisions of section 18-8004C, 18-8005 or 18-8006, Idaho Code, who, by any means, represents to any person licensed to sell beer at retail or wholesale, or to any agent or employee of such retail or wholesale licensee, that he is not an interdicted person, or otherwise fails to disclose his status as an interdicted person, for the purpose of inducing the retail or wholesale licensee, his agent or employee, to sell, serve or dispense beer to him shall be guilty of a misdemeanor.

(2) Any person licensed to sell beer at retail or wholesale, or any agent or employee of such retail or wholesale licensee, shall not sell or furnish any alcoholic beverage to any person without first checking the person's driver's license or identification card.

SECTION 11. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

1 SECTION 12. This act shall be in full force and effect on and after July 1, 2009, and
2 shall apply only to those persons who commit an offense on or after July 1, 2009, and is not
3 intended to repeal or amend those provisions of the Idaho Code that apply to persons who
4 commit an offense prior to July 1, 2009, which provisions shall continue to apply.